QUID NOVI

Journal des étudiant-e-s
en droit de l'université McGill

McGill Law's
Weekly Student Newspaper

Volume 34, n°17
26 mars 2013 | March 26th 2013

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3661 Peel Street
Montréal, Québec H2A 1X1

http://quid.mcgill.ca/

WHAT'S INSIDE?
QUEL EST LE CONTENU?

WANT TO TALK?
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Envoyez vos commentaires ou articles avant jeudi 17h à l'adresse : quid.law@mcgill.ca

Toute contribution doit indiquer le nom de l'auteur, son année d'étude ainsi qu'un titre pour l'article. L'article ne sera publié qu'à la discrétion du comité de rédaction, qui basera sa décision sur la politique de rédaction.

Contributions should preferably be submitted as a **.doc** attachment (and not, for instance, a ".docx").

Co-Editor in Chief

AARON FERGIE

SOCIAL INTERFACTION

During one of the recent pizza lunches with the Dean, he mentioned that, in comparison with law students in other universities, McGill law students tend to report lower levels of satisfaction with their peers with the exception, perhaps, of their tight-knit group of friends (I wonder if results were collected during course aux stages?).

This editorial takes for granted that we tend not to make deep connections with those around us except for a limited few; in that regard, the ability to share one's concerns with others is taken as an indicator of this state of affairs. This editorial attempts to provide an account of this in the context of McGill Law. Finally, this is a speculative, rather than prescriptive exercise.

Thin-Skin and Self-Criticism.

One barrier to sharing one's concerns is the ongoing competition: no one wants to show others that they're struggling or having a hard time. This works on at least two levels. One is the more personal/emotional level, where we simply want to perceive ourselves, and be perceived as successful individuals. This may be a consequence of holding ourselves to a heightened standard, where we consider as obligation what many others might consider mere aspiration or option. The cost on the emotional plane is a lower level of tolerance for "mistakes" and perhaps a greater degree of self-criticism. Any criticism is an attack on the identity, and each person can only take so much: I'd read once that lawyers tend to be fairly "thin-skinned" in that they don't take criticism well, and perhaps this is a result of exhausting emotional resources handling self-criticism. In other words, it becomes crucial to have one's identity (e.g., as "good" or "successful" person) confirmed from the outside as a counter-weight to the disconfirmation coming from the inside.

Perception by Others as Key to Success.

There is also the practical pressure. As we move along, reputation tends to be more important in achieving goals: any of the opportunities that we strive for depend on what others think of us. We are all, as evidenced by the grades, more or less on the same level of technical competence. So if someone is going to hire one of us, or accept one of us for a given opportunity, are they going to accept the one that's competent but seems to be struggling, or the one that's competent but seems to be handling the stress comfortably? So, there is a concern even now to start putting the best foot forward. So, is this just neurotic? I tend to think it's a consequence of being in a naturally more competitive group.

Limited Resources.

On an even more concrete level there are simply time and energy constraints which play an important role in creating natural divisions among the groups we are part of. Deep, meaningful relationships take much time and energy, and it is simply not possible to get to a level where we can share with everyone our innermost concerns. Most spontaneous conversations don't last more than a few minutes: most of us have planned out our time to varying degrees because we understand how precious that time is. So, while we can afford to spare a few minutes to make small connections, any more than that begins to cut into the time that we have carefully allotted. This is normal and to be expected more and more as we become busy professionals in our respective fields. So, if you are only going to chat for five minutes with someone, and those are perhaps the only five minutes you will have with this person in, say, the next 4 weeks, are you going to spend that time talking about what's bringing you down, or would it be better to give that person a boost?

Altruism and Acceptance.

Related to this is the more simple altruistic concern of not wanting to bring others down. And there is perhaps the simplest reason for not revealing one's concerns, which stem from a positive outlook and an acceptance of the daily challenges of law school as simply a matter of course. And why not? Why bother going to McGill law if you don't want to work hard?

Individual Nature of the Work.

Another possibility is that the work is mostly of an individual nature. Although we are all to different degrees aware of what others are going through, the challenges are still, by and large, personal, unlike other environments where successes and failures are more widely shared.

Many Perspectives.

The Faculty also invites a very diverse student body, which can also make it difficult to connect with those who have a very different ideological output.

That's it for now!

JONATHAN BROSSEAU

Law II

FROM "ONE L" TO BRUTALIZATION

I could not have imagined the response my article "One L" published in the Quid Novi last January has received both in the Quid and in t hallways. I must admit that the responses from Shortt, Gibbs, Saucier Calderón, Boulanger-Bonnelly and Professor Forray on the issue of talization at our faculty greatly altered my perspective on the subject. I would like to thank them in that regard. Still, I cannot agree entir with their propositions and feel that I should expose my up to date reflection on brutalization. Before I move forward with this objective, should state the purpose of my article.

The Purpose This Article

Before I examine the main issues of this article, I would like to address three issues which have come up. Firstly, I want to expose in this a how law students are re-socialized through brutalization. Re-socialization is the process of mentally and emotionally re-training a person order to make it operate in new environment. Various means are used to achieve this transformation including, brutalization, classical co tioning, operant conditioning and role modeling. Brutalization itself focuses exclusively on breaking down barriers and setting of new nor and way of life for individuals.

This article will not focus on "brutality", but rather on brutalization as a sociological concept. While, one could say, from a critical race the perspective, that an Aboriginal women could feel a "brutal" sentiment of rejection in the face of our monolithic profession.[1] Here, as in m others situation exposed by my fellow law students, the word would make reference to the harshness of the circumstances.

Secondly, the pedagogy will be at the core of the analysis. Many factors, as my fellow classmate exposed, lead to re-socialisation and bru zation. However, I engaged with legal education in my first article and want to pursue in that vein, because I feel it is not often exposed a is part of the problem.

Thirdly, the critique putted forward in this article applies to Western law schools generally. But, even if our law faculty may avoid many of pitfalls described, I still believe that the debate which has occurred in the Quid Novi provides an opportunity for the faculty to improve its

Brutalization: the Military and the Legal Profession

Dave Grossman, a leading expert in military training methods, explains how re-socializing occurs in the military and why brutalization is u When new recruits arrive at boot camp, they are head shaved and herded together naked, face countless hours of push-ups and are yelle by instructors. Grossman says: "In the end, you are desensitized to violence and accept it as a normal and essential survival skill in your b new world".[2] Soldiers are trained to follow commands even if they go against natural aversions or one's moral. This ease of this transform tion, nevertheless, will be affected by the soldier's previous experiences. Thus, it is not surprising, for instance, that child of officers will a tom rapidly to the military life.

Now, we have to ask ourselves: is there a correlation between legal education and military training? In its Field Manual No 1, the Headqu ters of the Department of the U.S. Army declared: "Professions —such as, medicine, law, the clergy, and the military— develop and maint distinct bodies of specialized knowledge and impart expertise through formal, theoretical, and practical education. Each profession esta- blishes a unique subculture that distinguishes practitioners from the society they serve." This demonstrates how both professions use re- cialisation to attain their objectives.

However, could we say that the brutalization in the military is present in a different form in the legal profession? I do believe that the bru zation in law school pedagogy leads to re-socialisation. In "One L" I discussed how the roots of the Socratic Method are still present in M Law's pedagogy, even if in a limited form, they are a source of the problem. Many disagreed with this claim. They asserted that professor not cold call student anymore and that no penalties are imposed to introverted students who are less inclined to participate. While the a ments brought forth by my colleagues are not entirely persuasive to me, they have allowed me to realize that the primary cause of bruta tion was not the Socratic Method, but the concept of "learning to think like a lawyer".

The expression "learning to think like a lawyer" is widely used by professors in first year, but is rarely defined. It involves; analyzing and d guishing facts, briefing cases, and devising complicated problem into its component parts must certainly have something to do with it. Fu mentally, law students learn to ferret out of a problem those features relevant to its resolution. If "thinking like a lawyer" does not seem problematic at first glance, the implications behind it expression are.[3]

Continued from previous page

The Problems Behind "Thinking Like A Lawyer"

There are three implications behind "thinking like a lawyer" which are fundamentally problematic. Firstly, as I argued in my response to Mr. Shortt, the concept is based on the idea that lawyers are distinct from the rest of the society. Professor Mudd, who was then the Dean at the University of Montana School of Law, explained how it is one particularity of our profession: "My colleagues in the physics, political science, and chemistry departments, to name a few, were helping their students achieve the same kind of careful, critical thinking in their disciplines. They did not speak of thinking like a physicist, a chemist, and so on, but of thinking clearly and critically".[4] This elitist perspective endows a negative image on the legal profession and creates divides between law student and SNAILS.

Secondly, "thinking like a lawyer" also presumes the assimilation of a new and unique process that student will only be able to master through a re-education. Rather than building on the critical skills of 1L, our law school, as many others, sets it aside to replace it with its own critical method.

Thirdly, this allows students to accept immoral situations: "For the law student, the socialisation process of being taught to 'think like a lawyer' involves learning how to separate 'legal' issues from other types of issue (moral, political or social), a process which has been described as one which 'steals one's soul'. Law school (...) provide the intellectual equipment with which recipients can justify and give force to beliefs and actions most people would wholeheartedly condemn".[5] But, what could be made to overcome these concerns?

Paths of Solutions: Thinking Critically

I do agree with Professor Mudd when he says that we must shift the emphasis from 'thinking like a lawyer' to 'thinking clearly and precisely". Doing so would lead to three changes in the pedagogy at our Faculty. Firstly, professor should engage in a more profound dialogue with their students. Critical thinking developed by law students before law school should not be set aside. The pre law school perspective is an ally for students in learning the law and they would feel more respected and rewarded if they were allowed to maintain this thought process. This would also follow from the proposition that the learning process should be done through more frequent formative evaluation. I think the problem with grading at McGill is not one of the curve but about the representativeness of the grade with regards to the effort exerted. The thousands of pages read by student leads to a three hour fact pattern exam which evaluate skills barely practice before. Student would then be less disabused.

Secondly, giving a fresh look at "thinking like a lawyer" should include an analysis of the time/benefit ratio involved in student learning. Like I wrote above, students read cases after cases throughout first year. To learn the law, one says, students should read as many of them as possible and try to figure out by themselves what is important in them from what is not. In shifting to "thinking critically", the emphasis on non-law doctrine and on professor guidance through reading should be made. That way, students would be more motivated.

Finally, student should be informed about the pedagogical approach of their law faculty. This could be done by giving information session for first year student, by giving a class of legal pedagogy and by forwarding the lecture in Foundation of Canadian Law to the beginning of the year.

A Difficult Question

I will conclude this article by asserting that the question of brutalization is a difficult one. The many different views on the matter in the pages of the Quid exemplified this. I must admit, though, that I was surprised to see no One L jumped in. Does this fact strengthen the position in favour of brutalization at the faculty or does it only shows how the debate was only a storm in a glass of water? I would pick the first option and put forward that, even if my article dealt with legal pedagogy, it was not addressed to professors, but rather to McGill law students. I wanted to open the eyes of my fellow classmate on what I believe is a systemic problem and to try and intellectualize it.

Footnotes:

[1] See on the subject Patricia Monture, "Ka-Nin-Geh-Heh-Gah-E-Sa-Nonh-Yah-Gah" (1986) 2 CDNJ Women and The Law 159.

[2] Ibid.

[3] John 0. Mudd, "Thinking Critically About 'Thinking Like a Lawyer'" (1983) 33 J. Legal Educ., p. 704-711 à la p. 704.

[4] John 0. Mudd, "Thinking Critically About 'Thinking Like a Lawyer'" (1983) 33 J. Legal Educ., p. 704-711, à la p. 705.

[5] Fiona Cownie, "Alternative Values in Legal Education" (2003) 6 Legal Ethics p. 159-174, à la p. 159.

JEAN-FRÉDÉRIC HÜBSCH

LUNCH WITH THE EXPERT – HAIG OGHIGIAN

On Wednesday, March 20, as part of its "Lunch with the Expert" series, the McGill Arbitration Society invited Haig Oghigian from Baker & McKenzie's Tokyo office to talk to a group of about 20 students about his experiences in international arbitration. Mr. Oghigian shared his humour and good spirits with the group, providing anecdotes and advice to the aspiring arbitrators assembled.

Follow your interests.

Mr. Oghigian's career path to arbitration was a circuitous one. A McGill law graduate, he initially joined the foreign service where he was sent to locations all over the world, providing him with exposure to international law and to various cultures. That experience eventually drew him towards Asia and, more specifically, to Japan. He then found whatever ways he could to combine his legal background with his interest in Japan. Now, when not travelling to participate in international arbitrations, Mr. Oghigian lives and works in Tokyo.

Thus, Mr. Oghigian's key piece of advice: "Don't rush into the game that law practice is all about. If there are other things you want to do, you should think about that and see how you can incorporate them into your life as a lawyer."

"You've picked a good time for arbitration. There's lots of potential."

Ten years ago, according to Mr. Oghigian, it seemed arbitration was on it last legs. People were moving away from it as its promise of being faster, cheaper, confidential and universally enforceable (under the New York Convention) was not being fulfilled. The marked and steady increase in international commercial activity coming from emerging economies, however, has brought arbitration back into the foreground. Arbitration has become the go-to for companies doing business in emerging economies, where in some cases the judicial system is not yet fully established or functional.

Further, arbitration remains a relatively new field of practice. A young lawyer who can hone their skills in arbitration may end up with a toolkit that even senior lawyers don't have, creating more opportunities for professional growth and advancement.

Being an arbitrator means being culturally aware.

According to Mr. Oghigian, "arbitration has a different flavor depending where one goes". For example, in China and Japan, the practice of Med-Arb (dispute resolution under which the same person is appointed both as mediator and arbitrator) is widely accepted. In most other jurisdictions, especially in common law, there is far more skepticism of such practice.

Given these differences, a student asked whether there was an international concept of what an arbitrator should be. Mr. Oghigian responded that any such concept is evolving, but "arbitrators tend to be multilingual, have lived in other countries beside their own, have multiple degrees or have been trained in other jurisdictions."

Ultimately, Mr. Oghigian considers language to be a great way to open the door to a career in arbitration. In his case, his knowledge of Japanese is among the most important factors that got him into arbitration. Knowing other languages is not just a matter of linguistics, but also of culture. The better an arbitrator understands culture, the better he or she will do as an arbitrator, and the parties to the arbitration will notice.

Over the course of the stimulating discussion, Mr. Oghigian touched on many, many other aspects of a career in international arbitration. Indeed, the students assembled stuck around well past the end of the lunch to learn more and to participate in a short practical exercise on drafting arbitration clauses. It seems everyone in the room was extremely grateful to have such an accomplished and articulate advocate of arbitration come impart his wisdom to the next generation of arbitrators.

The McGill Arbitration Society thanks the Law Students Association for helping to fund the event.

IPITPOL

ARRRR: PIRACY AND CREATIVITY ONLINE UNDER CANADA'S NEW COPYRIGHT REGIME

What does the Harper government's newly passed copyright reform mean for internet culture in Canada? Will it successfully clamp down on illegal downloading? Or will it instead pose a serious threat to creativity and expression online? Join IPITPOL next Thursday, March 28th at noon in room 406 of Thomson House for "Arrr: Piracy and Creativity Online Under Canada's New Copyright Regime", a rousing discussion with Me Allen Mendelsohn on the brave new world of Bill C-11. Me Allen Mendelsohn est un avocat montréalais spécialisé en cyberdroit. Après avoir obtenu son diplôme de la Faculté en 2001, il a travaillé quelques années pour un grand cabinet montréalais. He left to become Vice-President of a Montreal internet company, and then returned to the Faculty to complete an LL.M, writing an award-winning thesis on Torrents and copyright. Il travaille maintenant à son compte et offre à ses clients, petits et grands, des conseils sur diverses problématiques liées à Internet et aux nouvelles technologies. Café et rafraîchissements seront offerts.

So: March 28th, noon, room 406 of Thomson House. Looking forward to seeing you there!

(And be sure to come to our sure-to-be-rocking Coffeehouse, hosted in partnership with OutLaw McGill, that very afternoon - we'll try and get Allen to stick around!)

ALISON GLASER

Office of Research

MCGILL LAW RESEARCH WEEK

Ever wondered what your professors do every day when not teaching? Or what it actually means to be a legal academic? Whether a career in academia is right for you? Find out during McGill Law's Research Week, taking place April 3-5!

La Semaine de la recherche a pour but de présenter et de célébrer le travail qu'effectuent les membres de notre communauté. Tous les membres de la Faculté, professeurs et étudiants de tous cycles, sont invités à participer. Voici certaines des activités prévues au calendrier :

A session on academic careers: Professors Jukier, Kong and Klein will discuss the realities of legal academia. This session will take place on Thursday, April 4 from 3-4 pm in room 312.

Des déjeuners-causeries avec des professeurs, qui discuteront de leurs propres programmes de recherche et des tenants et aboutissants de la recherche universitaire en droit. Deux séances sont prévues : mercredi le 3 avril et vendredi le 5 avril, de 12h30 à 13h30 dans la salle 201. Lunch will be provided – first-come, first-served!

All are invited and encouraged to attend!

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Skirt, 100% wool (court stripe, black or charcoal):	147.00	109.75
Skirt, poly/wool, black:	136.50	92.75
Barrister Robe Bag, blue velvet, w/ 4 Initials:	99.75	66.00

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LEGAL INFORMATION CLINIC

SUMMER LEGAL INFORMATION CLINIC

Spending the summer in Montreal? Hoping to put your legal skills to practical use? La Clinique d'information juridique à McGill est à la recherche de bénévoles!

The Legal Information Clinic at McGill is a non-profit, student-run, bilingual and free legal information service. Notre mandat est de fournir de l'information juridique et d'offrir des références à la communauté de McGill ainsi qu'aux populations marginalisées du Québec.

We are seeking volunteers who have completed their first year of law by the end of this semester. The commitment will be 2-3 hours per week and training will be provided. The Clinic welcomes new volunteers and encourages returning volunteers to continue their involvement.

En faisant du bénévolat à la Clinique, vous aurez une excellente occasion de mettre en pratique ce que vous avez appris dans au cours de l'année. Not only will you get to work directly with clients who have real legal questions, but you will also have the opportunity to develop your legal research skills and explore new areas of the law.

Volunteering at the Legal Information Clinic at McGill can also be great preparation for those interested in the Student Advocacy Program, a proud part of the Legal Information Clinic at McGill. Ce service offre aux étudiants impliqués dans des processus disciplinaires, de grief ou d'appel, des conseils gratuits et confidentiels ainsi qu'une représentation par un représentant étudiant. L'appel aux candidatures pour les postes de représentants-étudiants adjoints se fait l'automne.

Des séances de formation obligatoire pour la session d'été auront lieu en mai (details TBA). Pour de plus amples renseignements ou pour vous ajouter à la liste de distribution, please e-mail hr.licm@mail.mcgill.ca. Please feel free to get in touch whether you are interested in volunteering this summer or in the fall.

LEGAL INFORMATION CLINIC

PRO BONO STUDENTS CANADA

The 2012-2013 academic year was a great one for Pro Bono Students Canada (PBSC) McGill. The only national student program in Canada, the only national pro bono program in the country, and the only national pro bono service organization anywhere in the world, PBSC is an organization that offers unique and interesting pro bono legal experiences to its students. This year, the McGill Chapter had its biggest program ever with nearly 100 students participating in 32 different placements. The 2012-2013 roster of organizations expanded to add several new ones, with more additions planned for next year. While many of the placements consist primarily of legal research, there are several more interactive placements as well, such as Pinay, Project Genesis, Native Women's Shelter, and le Centre Communautaire des Gais et Lesbiennes Montréal, among others. Additionally, PBSC offers unique opportunities such as the Tax Court of Canada Project, two different placements with the CCLA, and the Wills Project. The latter project is new this year and gives students the opportunity not only to give legal information presentations on wills for organizations serving elderly citizens around Montreal, but they also have the opportunity to work directly with a notary interviewing an in-need elderly person and then drafting a will. If you would like to have direct client contact or are interested in wills or what notaries do, the Wills Project would be a good fit.

Our end of year appreciation lunch took place on March 20th in the Thomson House Ballroom, and was a lot of fun. PBSC McGill wishes to thank the Dean's Discretionary Fund for its financial assistance in putting on the event. The assistance is much appreciated.

If you're interested in getting involved with PBSC in the 2013-2014 academic year, start checking the PBSC McGill website (www.mcgill.ca/probono) in early August for a full list of projects and deadlines. You can also email probono.law@mail.mcgill.ca if you have any questions. We hope you'll want to participate!

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Thank you for participating in this important process!

Prof. Morton J. Mendelson

Deputy Provost (Student Life and Learning)

McGill
MERCURY
COURSE EVALUATION

JEAN-FRÉDÉRIC HÜBSCH

LESSONS FROM A LITIGATOR

Oral advocacy is something we all have to do as lawyers-to-be, be it in first or second year, in competitive moots or in other settings. And it's something many of us will have to get used to once we're practicing. With this in mind, on Friday, March 15, the McGill Arbitration Society invited Me Julien Morissette from Osler, Hoskin & Harcourt LLP to run a workshop entitled "Convincing Oral Advocacy: Tips & Tricks".

Me Morissette regaled participants with several personal anecdotes from various levels of courts – traffic to Supreme – and from various fields of law. After having gone through a myriad tips, he showed excerpts of experienced litigators making submissions to the Supreme Court of Canada to demonstrate what works and what doesn't, as well as to show how different advocacy styles can be effective in different ways.

For those who weren't able to attend this highly informative workshop, here are some highlights that may not have been covered in your classes:

Before the big day...

- Know your audience – you don't want to get the title of the decision-maker wrong.
- Know the rules of practice and procedure (they're often on the court's website).
- Be sure to clear your head before a hearing, for example by doing something unrelated for fifteen or twenty minutes beforehand.
- If you've got witnesses, have a strategy to manage them in case the hearing goes long/wrong.
- Beware of involuntary props – visual aids are useful when used purposefully, otherwise they can be a distraction.

In court...

- Watch what you say and to whom you say it – court staff often work directly with judges.
- Questions are rarely, if ever, attacks; take them in stride and answer them to the best of your ability.
- Develop an "elevator pitch" to introduce your case and tell the court where you're going.
- Respect the forum and show decorum.
- Speak s l o w l y – the pace is slower than normal speech; judges are taking notes.
- If you don't know, say so – speculation is dangerous, misleading even more so.
- But don't acquiesce if you know something to be false – set the record straight.
- If you know you cannot win a point, concede or stonewall (but don't elude) and move on.

Finally, after the dust settles, take the opportunity to learn from the experience by picking one element you want to improve at your next opportunity.

The McGill Arbitration Society thanks the Law Students Association for helping to fund the event.

MEDIATION AT MCGILL

THE INTERNATIONAL COMPETITION IN MEDIATION ADVOCACY

Laure Prévost - 3L, Léa Préfontaine - 4L
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"It's so good to see you Mrs Brown. How are you doing?"

Believe it or not, these words were part of the International Competition in Mediation Advocacy (ICMA), a legal advocacy competition in a mediation setting. The "it's so good to see you" opening statement was lauded by Madam Justice Louise Otis as unforgettable: it is the perfect greeting to set a collaborative tone.

Why should this matter?

Firstly, because it is quite different from the traditional "Your Ladyship, Your Lordship, May it please the Court…" opening statements we are taught for our 2L Moot. It is more genuine and informal. While the opening statement is uniform in court cases, the opening of a mediation session is uniquely crafted for connecting with the other side. It must reflect the nature of the relationship between the parties and set the tone for the meeting. It is about developing people skills; balancing small talk with legal knowledge in a non-competitive manner. "It's so good to see you" is disarming! How could you respond without sounding collaborative?

Secondly, because it reflects feelings. Yes, courts tend to stay away from the f-word. Mediation is an appropriate forum for these: it gives clients the space to voice their pain and excitement; needs and interests; fears and dreams. More than one team shed tears: one client's spouse was diagnosed with a rare illness, leaving the client emotionally vulnerable in the face of negotiations with the bank. In another case, a mother had been utterly humiliated in front of her neighbours when a bailiff seized the family's leased car due to an unfortunate internal miscommunication at Big Auto, the car dealership. Others had to consider feelings when crafting their strategy upon realizing that their counterparts were not going to negotiate until the client had clearly expressed his/her pain and suffering or desire to mend the relationship and find common ground to move forward.

Thirdly, because the Faculty of Law and the Dean's Discretionary Fund generously sponsored our involvement in the competition. It stands as a testament to the Faculty's openness towards alternative dispute resolution. We are encouraged not only to learn to plead and write outstanding facta, but also to develop the skills necessary for conflict resolution such as active listening, information gathering, problem-solving, relationship-building, teamwork, advocating for the client, generating creative options, presenting the law and other facts in a coherent and accessible manner, and promoting effective communication. ICMA is the perfect forum to cultivate these skills.

Last week's International Competition of Mediation Advocacy was a dream come true: a practical legal learning experience in an amicable setting. The competition consisted of several rounds of mediation, where two teams made up of one lawyer and one client came together to try to negotiate the settlement of a legal dispute.

On the legal side, the "Partners for Life" case made us research and review private international law, contract law, and learn about the new regulations following the sinking of the Costa Concordia. "Guaranteed Trouble", a $5.8 million loannegotiation, taught us about secured loans, revolving and non-revolving credit, banking facilities, selling tangible assets in good faith, the receivership process, and loan guarantor obligations. "Big Auto Blow-Up" enabled us to fine-tune notions in contract and tort law while learning about car leases, wear-and-tear insurance coverage, penalties and interest rates on missed payments, and other hidden fees. On the non-legal side, we learned about the price of a signed first edition by Ian Flemming, real estate value in Bridle Path, resale value of a Dodge Caravan, the U.S. Coast Guard, the Greek economic crisis, and business actions plans, among other things. We doubt that other moots cover such wide ranges of subjects!

It may seem hard to apply the theoretical side of mediation and negotiation. After all, isn't the point of it simply to settle and avoid going to court? Mediation and negotiation are so much more than that. For an ultimate session, it is necessary to understand the other side's negotiating style and adapt your ownThis appears quite abstract until you are faced with a difficult conversation, when it suddenly becomes critical to master each technique. What better way to appropriate these techniques and develop one's unique style than by practicing them in the context of a competition?

Finally, this competition was an opportunity to reflect on the meaning of advocacy and the role of settlement as an integral part of the justice system. Of course, judges and trials will always be a strong and necessary pillar of the system, and our strategies at the competition always included a reflection of what the litigated outcome might look like. But considering that in reality most cases settle out of court and there is often a wide array of business and personal interests at play, it is evident that the modern lawyer needs more than just legal skills to best represent her clients. Playing the role of the client was an occasion to better understand the client's point of view and the value of her participation in the solution, which often resuted in creative elements that no judge could have imposed. Playing the role of the advocate was also an incredible learning experience: how does one strike a balance between defending the client's best interests and stating the strength of their case without undermining the collaborative tone needed to reach a settlement? When is it appropriate to disclose sensitive confidential information? How is the mediator involved in the process? The McGill team was complimented for its "quiet advocacy" style, a style that may be quite effective in real life, but may not gain as much recognition in a mooting competition.

Our learning experiences extended outside our preparation sessions and the competition rooms. Our meetings with other teams taught us about the American legal system, differences in law programs across Canada, where to find the best food in Vancouver, Saskatoon, Dallas, and D.C., and a few idiomatic phrases. We taught them about the Civil Code, the transsystemic approach,

Montreal bagels and the proper pronunciation of a few French words.

Judges and students alike loved the fact that we were from Montreal, going out of their way to introduce some French words in our conversation, from the basic "bonjour" and "merci" to "je ne sais quoi", "parlé", and "joie de vivre". Their efforts reflected the collegial and inclusive nature of ICMA.

The McGill team won against Fordham (10th school in the States for dispute resolution) and Saskatchewan (who just won the JESSUP!), and lost against Georgetown, the final winner of the competition and originator of the "it's so good to see you" opening statement. Yet in their final round, Georgetown adopted (and acknowledged doing so!) three negotiation techniques from McGill: taking the floor and setting the agenda after the opening statements, integrating some [appropriate] hand gestures and changing body language to reflect emotions, and closing the session by congratulating the two sides on how much progress was made throughout the discussion. This integration of other teams' strengths is a testament to the collaborative nature of the competition. We would like to think these techniques helped them win the last round just as we recognize how much we have learned from them.

To get involved in mediation initiatives, we encourage you to join Mediation at McGill, a law student club which just launched a Mediation clinic on campus. We also strongly encourage all 1L and 2L to take the mediation course with the Hon. Louise Otis in May. If this does not meet your schedule, why not ask for more mediation and alternative dispute resolution courses to be offered in the fall and winter semesters?

If we were still here next year, we'd love to take part in the competition again next year. We are graduating though, and highly recommend that YOU participate in ICMA in 2014! The lessons you will learn are priceless. We hope that you will, like us, feel this was by far your best Law School learning experience and that you will be able to start your statements with "It's so good to see you Georgetown!"

To join Mediation at McGill, email mediation.communautaire@gmail.com, or see our website at http://mediationmcgill.org/.

Law II

PASCALE APRIL

FACULTY COUNCIL REPORT

Faculty Council had its fourth open meeting of this academic year on March 13.

Principal's address
McGill Principal and Vice-Chancellor Heather Munroe-Blum addressed the meeting, in particular to address the University's financial situation. She stressed the confidence the central administration has in the Faculty of Law based on its accomplishments and reputation, highlighting in particular Professor Macdonald's Order of Canada and the Faculty's recent fundraising success.

Principal Munroe-Blum re-iterated what we've been hearing in recent weeks about the financial situation – very little came out of the Summit on Higher Education and the University is taking nothing for granted with respect to the government's contributions and its regulation of tuition. She suggested that the key to McGill's – and the Faculty's – continued prosperity in the face of uncertainty is a diversification of revenue. Specifically she encouraged seeking large gifts from foundations, which she described as an underused source of revenue that has become standard practice at comparable institutions.

Inscription aux cours de première année
Professeur Ellis, vice-doyenne à l'enseignement, a soulevé la possibilité de laisser aux étudiants de première année le choix de leur section au moment de leur inscription aux cours dans Minerva en remplacement du système actuel d'assignation des étudiants à des sections en ne tenant compte que de leur préférence langagière. Une discussion franche et passionnée s'en est suivie. Les opinions étaient mixtes autant chez les professeurs que chez les étudiants.

La décision sera prise par la vice-doyenne pour qui le conseil de faculté a servi de forum consultatif, mais étant donné le manque de consensus, il y a lieu de s'attendre au maintien du status quo, au moins à court terme. Le désir de voir plus d'étudiants anglophones prendre des cours de première année en français fut soulevé en tant que problématique corrélative et la possibilité d'instituer un système réussite-échec pour palier à ces problèmes, accueillie avec intérêt par la vice-doyenne.

Communicating research
Professor Mégret, Associate Dean of Research, spoke on the significance of new ways of communicating research to reach different and larger audiences. The Faculty is very good at the traditional methods of disseminating research, i.e. conferences and journals, but must not fall behind in use of new methods. He encouraged a stronger presence on social media, and Twitter in particular, where reaction is instant to new developments.

Réforme du curriculum
Professeur Gélinas a brièvement parlé des travaux du comité ad hoc sur la réforme du curriculum. Le comité, auquel participe aussi des étudiants, constitue un forum d'échange d'idées et vise à établir une base de connaissances pour des changements possibles à la forme et l'articulation du curriculum tant qu'il reste possible de séparer cette discussion de celle de son contenu. Cette année, le comité a décidé de se concentrer exclusivement sur la structure du curriculum de première année. Plus de détails concernant les travaux du comité seront mis à la disposition des étudiants après sa prochaine réunion.


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